

IN THE SUPREME COURT OF OHIO



MARCUS FONTAIN,

Appellant,

v.

HARJINDER ("HARRY") SANDHU, ET AL,

Appellees.

CASE NO. 2022-036

ON APPEAL FROM THE HAMILTON  
COUNTY COURT OF APPEALS FIRST  
APPELLATE DISTRICT

APPEAL NO. C-200011

TRIAL NO. A-1901296

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**APPELLANT'S MOTION TO STRIKE APPELLEES OPPOSITION MEMORANDUM TO  
APPELLANT'S MEMORANDUM IN SUPPORT OF JURISDICTION FOR MALICIOUS  
PROSECUTION; ABUSE OF PROCESS; VIOLATIONS OF DUE PROCESS; AND  
AND VIOLATIONS OF APPELLANTS' SIXTH AMENDMENT RIGHT TO SELF  
REPRESENTATION AND FIRST AMENDMENT RIGHT TO ACCESS**

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COMES NOW, Plaintiff- Appellant Marcus Fontain, (“Appellant”) *pro se*, and moves this Court to strike the false, legally meritless, malicious and vindictive Memorandum of the Defendants-Appellees (“Appellees”) for engaging in Malicious Prosecution and Abuse of Process, for violating the Appellant’s Substantive and Procedural Due Process under the Fifth and Fourteenth Amendments, for violating the Appellants Sixth Amendment Right to Self-Representation and Fifth Amendment Right to access all of which are protected under the United States Constitution and for violating the Appellants’ Civil Rights under Title 42 USC 1983 for which the Appellees are already before the U.S. District Court.<sup>1</sup>

## I. INTRODUCTION

The Appellant is the prevailing party *H&R Cincy Properties, LLC, et al v. Marcus Arthur Fontaine, et al.*, CA No. C-190574 on appeal from the fraudulent “**Receivership Action**” conducted by the Appellees - post dismissal - of the Appellant in the equally dismissed *H&R Cincy v. Fontaine*, Case No. A-170564 – at issue here.

## II. ALLEGATIONS OF FACT

### A. Appellees Memorandum should also be stricken due to the following

In their Memorandum the Appellees failed to explain, whatsoever, the reasons why Appeal Judges **Crouse and Winkler** in the **First** Judgment Entry of **February 26, 2021** in *H&R Cincy Properties, LLC, et al v. Marcus Arthur Fontaine, et al.*, CA No. C-190574 - on appeal from the fraudulent “**Receivership Action**” *H&R Cincy v. Fontaine*, Case No. A-1705644, illegally conducted by the Appellees – correctly ruled - that the trial court **did not** have Personal Jurisdiction over the dismissed with prejudice Appellant and **did not** have Subject Matter Jurisdiction over the equally dismissed *H&R Cincy v. Fontaine*, Case No. A-1705644.

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<sup>1</sup> See U.S. District Court for the So. Dist. of Ohio – Civil Rights Action, Marcus Fontain v. Brian J. O’Connell, et al., Case No. 1:22-CV-105. See also U.S. District Court for the So. Dist. of Ohio – Civil Rights Action - Marcus Fontain v. April M. Lane, et al., Case No. 1:19-CV-304.

The Appellees failed to explain why Appeal Judges **Crouse and Winkler** – in their **Second** Judgment Entry on **August 11, 2021**, in Marcus Fontain v. Harjinder Sandhu, et al, CA No. C-2000011 – wrongly ruled that that the trial court **did** have Personal Jurisdiction over the dismissed with prejudice Appellant and **did** have Subject Matter Jurisdiction over the equally dismissed H&R Cincy v. Fontaine, Case No. A-1705644 to conduct a **post dismissal** fraudulent “**Receivership Action.**”

**This is no less than a clear Intra District Conflict.**

Further Appellee O’CONNELL further failed to explain why Defendant-Appellee Zachary D. Prendergast (“PRENDERGAST”) was allowed by the Appeals Court to fabricate the Court’s **Second** Judgment Entry and why PRENDERGAST and O’CONNELL were also allowed by the trial court to fabricate the two Summary Judgment Orders, dismissing the Appellants Breach of Contract action, in complete disregard for the weight of the evidence.

Furthermore, Appellee O’CONNELL, also failed to explain why Appellee PRENDERGAST did not appear in the Court of Appeals oppose the **En Banc** Petition and has not made an appearance in this Court.

Moreover, Appellee O’CONNELL, has not explained how it is possible that the Chief Judge of the Court of Appeals, in approving the **Second** Judgment Entry, ignored that the Appellant was the prevailing party in appeal H&R Cincy Properties, LLC, et al v. Marcus Arthur Fontaine, et al, CA No. C-190574 – which is the law of the case.

**This is no less than a clear Intra District Conflict.**

### **III. ARGUMENT**

Appellees’ “Memorandum” against the rule of law and Supreme Court Rules, seek to improperly convert this Court, in this matter into a court of First Instance.

Once this Court passes beyond the Appellees bilious, false, and malicious personal attacks on the Appellant the court will discover that the only issue before this Court is whether the Court of Appeals manipulated its own **First, February 26, 2021**, Judgment Entry,

and the Civil Rules to affirm, the ***Second*** August 11, 2021, Judgment Entry, to achieve an implausible and absurd conclusion, in the ***Second*** Judgment Entry.

**That is where the Intra District Conflict resides.**

### **CONCLUSION**

The Appellees ostensible opposition Memorandum should be stricken because the Constitutional violations are deafening; it is loaded with falsities the Appellants cannot and did not back up, was filed by irresponsible people and it represents a threat to the rule of law.

The Appellees sham Memorandum constitutes Malicious Prosecution and Abuse of Process, in violation of the Appellant's Substantive and Processual Due Process under the Fifth and Fourteenth Amendments, protected by the United States Constitution.

The Appellees bogus Memorandum should be stricken because it violates the Appellants Sixth Amendment Right to Self-Representation and Fifth Amendment Right to access protected by the United States Constitution.

The Appellees bogus Memorandum should be stricken because it is violative of the Appellants' Civil Rights protected by federal law, under Title 42 USC 1983.

Judges **Crouse and Winkler**, the Appeals Court and the Appellees cannot have it both ways. Either the trial court had Personal Jurisdiction over the dismissed with prejudice Appellant and Subject Matter Jurisdiction over the equally dismissed *H&R Cincy v. Fontaine*, Case No. A-1705644 for the Appellees to have perpetrated a – post dismissal - sham ***Receivership Action*** - or it did not.

The Appellees ask for this Court to ignore the issue of jurisdiction or lack thereof of the trial courts. This matter is in fact of grave constitutional concern because Ohio trial courts cannot be allowed to sua sponte ignore the serious constitutional mandate of jurisdiction.

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The evidence in this matter is clear - Appellees O'CONNELL and PRENDERGAST are two corrupt lawyers engaged in multiple racketeering schemes under the color of state law and are uniquely unqualified to opine on jurisdictional issues.

Appellees Memorandum should be stricken, and the gross violations of Jurisdiction should be corrected, here.

Submitted with respect on February 28, 2022

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## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served, pursuant to Ohio Civ. R. 5(B)(2)(t) by electronic mail, personal delivery, via email and/or via ordinary mail, upon the following on this date:

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February 28, 2022

*Marcus Fountain*

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